

### **STATUS OF CLAIMS**

Claims 1 - 27 are pending.

Claims 1 - 27 stand rejected.

Claims 1, 4, 13, 16, 18, 19, 23 and 26 have been amended without prejudice herein.

New Claims 28-29 have been added herein.

Claims 2, 3, 5 and 12 have been cancelled without prejudice herein.

### **REMARKS**

Applicant respectfully requests reconsideration of the subject application.

#### **Response to Arguments**

Applicant notes the Office action inaccurately states, "[a]s noted by the applicant in his last remarks, the only difference between the scale shown in Kuoda [*sic*] and the claimed invention is that the optical shaft encoder of Kuoda [*sic*] consists of an opaque disk 20 ... ." 1/5/2006 Office action, par. 3 (*emphasis added*).

This mischaracterizes Applicant's arguments. More correctly, Applicant explicitly argued, (1) a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference, (2) that, "for example", Claim 1 recites, in part, "[a] mechanical weighing scale comprising: ... a movable member associated with a plurality of openings; [and] ... a sensor arrangement for sensing the openings; and (3) Kuroda fails to teach such a configuration, such that Kuroda fails to anticipate at least Claim 1. A similar, non-limiting, difference between the invention recited by Claim 24 was also noted. Accordingly, nowhere did applicant argue the only difference between the invention

recited in Claim 1, no less Claims 2-27, and the apparatus of Kuroda was that “the optical shaft encoder of Kuoda [sic] consists of an opaque disk 20 ...”.

Further, Applicant notes that since it is well settled that dependent claims incorporate by reference all the claim elements of a referenced claim and include additional claim elements uniquely set forth therein, the individual patentability of each of the dependent claims 2-23 and 25-27 on the basis of their additional recitations did not need to be argued. *Gentex Corp. v. Donnelly Corp.*, 69 F.3d 527, 529 (Fed. Cir. 1995) (*dependent claims contain all of the limitations of independent claims*). Since, by definition, they also included the exemplary limitation not taught by Kuroda.

Accordingly, Applicant submits it is entirely inappropriate to characterize Applicant’s previous response as an admission that “the only difference between the scale shown in Kuoda [sic] and the claimed invention is that the optical shaft encoder of Kuoda [sic] consists of an opaque disk 20 ...”

### **35 U.S.C. 103(a) Rejections**

Claims 1-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (JP 56-151323) in view of Day (United States Patent No. 3,967,271). Applicant traverses these rejections for at least the following reasons.

To establish a *prima facie* case of obviousness, all of the recited claim limitations must be taught or suggested in the prior art. See, *MPEP* 2143.03; see also, *In re. Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Kuroda and Day fail, in any combination, to teach or suggest each of the limitations of any of the pending claims.

Claim 1

Claim 1 has been amended to recite, in part, "wherein the movable member is selected from the group consisting of a pointer, a gear driven rack, a rotatable drum-shape dial and a segment of a rotatable drum-shape dial." Kuroda and Day fail, in any combination, to teach or suggest any of these configurations of a movable member.

Support for the Claim 1 amendment may be found in original Claims 2, 3 and 12. Further support for a pointer may be found in Fig. 3 and paragraph [0005] of the application as originally filed (*"The invention is embodied in a mechanical weighing scale having mechanical parts driving a pointer rotating around a fixed disc or dial having slots or holes formed therein ..."*). Support for a gear-driven rack may also be found in Figs. 7A - 8 and paragraph [0036] of the application as originally filed (*"FIGS. 7A and 7B show alternate embodiments of the dual display scale system. These scale systems are substantially similar to the scale system shown in the embodiment of FIGS. 1A, 1B, and 2, except that the optical pulse counter is integrated with the rack 734, 734' of the weight sensing mechanism ..."*). Support for a drum-shaped dial, or segment thereof, may also be found in Figs. 10A and 10B and paragraph [0039] of the application as originally filed (*"As shown in the embodiments of FIGS. 10A and 10B, the analog display may also be constructed as a drum 1000, 1000' and the optical pulse counter features, e.g., tabs 1050 and slots 1052 (FIG. 10A) or apertures 1053 (FIG. 10B) may be integrated with the drum 1000, 1000'. The rack driven shaft may be adapted to rotate the drum using any conventional transmission arrangement."*). Support for the Claim 1 amendment may also be found throughout the specification, and in Figs. 2-4 and 7A-10B, for example. Accordingly, no new matter has been added.

Kuroda and Day fail, in any combination, to teach a movable member selected from the group consisting of: a pointer, a gear driven rack, a rotatable drum-shape dial and a segment of a rotatable drum-shape dial – as is recited by Claim 1. In fact, Applicant notes the Office action itself argues Kuroda and Day instead teach movable discs 20, 50, respectively. *See, 1/5/2006 Office action, par. 3.*

Accordingly, Claim 1 explicitly recites a movable member, associated with a plurality of openings, that is selected from the group consisting of a pointer, a gear driven rack, a rotatable drum-shaped dial and a segment of a rotatable drum-shaped dial. Both Kuroda and Day merely teach movable discs. Hence, the cited art fails to teach, or suggest, each of the limitations of Claim 1. Thus, a *prima facie* case of obviousness of amended Claim 1 is lacking. Applicant respectfully requests reconsideration and removal of this rejection.

*Claim 24*

Turning now to Claim 24, it recites, in part, “[a] mechanical weighing scale comprising: ... a mechanical weight sensing arrangement including ... [a] rack and pinion arrangement including a rack member having a plurality of openings ... [and] a sensor arrangement for sensing the openings as the rack member moves in proportion to the sensed weight and generating a pulse for each of the openings sensed.” Such a configuration is shown in Figs. 7A – 8 of the present application, for example. Kuroda and Day similarly fail to teach or suggest such an arrangement.

Instead, the Office action itself argues Kuroda teaches an opaque disc with alternating reflective and dark markings. *See, 1/5/2006 Office action, par. 3.* Day teaches a transparent disc with alternating transparent and opaque sections. *See,*

1/5/2006 Office action, par. 3. Thus, any combination of Kuroda and Day necessarily uses a disc in combination with a sensor.

In contrast, Claim 24 requires that **the rack member of a rack-and-pinion arrangement includes the plurality of openings** – and not a disc. Accordingly, like Claim 1, the cited art of record also fails to teach or suggest each of the limitations of Claim 24 – such that a *prima facie* case of obviousness thereof has not been made. Accordingly, Applicant respectfully requests reconsideration and removal of these rejections as well.

Claims 4, 6-11, 13-23 and 25-29

Each of Claims 4, 6-11, 13-23 and 25-29 ultimately depends from one of Claims 1 and 24. Hence, each of these Claims is patentably distinct from the cited art at least by virtue of this dependence.

Further, these claims recite additional limitations not disclosed or suggested by the cited art of record. For example, new Claim 28 recites the movable member associated with the openings comprises a gear driven rack. This is distinct from the cited art of record, which calls for a movable disc. New Claim 30 recites the movable member associated with the openings comprises a drum-shaped dial or segment thereof – which is distinct from the art of record, which calls for a movable disc. Claim 4 calls for the openings to be slots defined between spaced apart tabs. In contrast, the cited art of record calls for an opaque disc or two rows of interior windows. Claim 8 recites the movable member associated with the openings comprises a pointer, while Claim 9 recites the pointer is moved by the rack and pinion arrangement. Claim 10 calls for the pointer to be movable across a scale face. Claims 21 and 23 recite a

plurality of light sensing elements, while Claim 22 calls for each of the light sensing elements to be associated with one of the openings. The cited art of record fails to teach or suggest each of the aforementioned features and limitations. For at least these additional reasons, allowance of the present claims is respectfully requested.

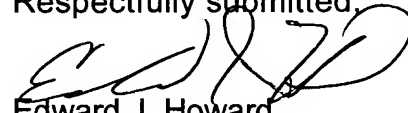
Should a notice of allowance not be forthcoming, Applicant requests the Examiner specifically identify which reference, and particularly point out which element(s) are being relied upon for teaching not only the elements of independent Claims 1 and 24, but each of dependent Claims 4, 6-11, 13-23 and 25-29 as well – so Applicant may be afforded a reasonable opportunity to understand and respond to the rejection of each pending claim.

**CONCLUSION**

In view of the foregoing, Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,



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